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Agenda item 158

Establishment of the International Criminal Court

Report of the Sixth Committee

Rapporteur: Mr. Joško **Klisović** (Croatia)

I. Introduction

1. The item entitled "Establishment of the International Criminal Court" was included in the provisional agenda of the fifty-fourth session of the General Assembly pursuant to Assembly resolution 53/105 of 8 December 1998.

2. At its 3rd plenary meeting, on 17 September 1999, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 11th to 14th and 36th meetings, from 20 to 22 October and on 19 November 1999. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/54/SR.11-14 and 36).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Proceedings of the Preparatory Commission for the International Criminal Court at its first and second sessions (PCNICC/1999/L.3/Rev.1 and PCNICC/1999/L.4/Rev.1 and Corr.1);

(b) Letter dated 17 May 1999 from the Permanent Representative of Bangladesh to the United Nations addressed to the Secretary-General, transmitting the Hague Agenda for Peace and Justice for the Twenty-first Century, adopted by the Appeal for Peace Conference, held at The Hague from 12 to 15 May 1999 (A/54/98).

99-36637 (E) 021299

II. Consideration of draft resolution A/C.6/54/L.8/Rev.1 and Corr.1

5. At the 36th meeting, on 19 November, the representative of the Netherlands introduced a draft resolution entitled "Establishment of the International Criminal Court" (A/C.6/54/L.8/Rev.1 and Corr.1).

6. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.8/Rev.1 and Corr.1 without a vote (see para. 8).

7. The representatives of the Syrian Arab Republic and Lebanon made statements before the adoption of the draft resolution (see A/C.6/54/SR.36).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Establishment of the International Criminal Court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995, 51/207 of 17 December 1996, 52/160 of 15 December 1997 and 53/105 of 8 December 1998,

Noting that the Rome Statute of the International Criminal Court was adopted on 17 July 1998[1] and is open for signature in New York at United Nations Headquarters until 31 December 2000, and taking note of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court done at Rome on 17 July 1998,[2]

Noting in particular that the Conference decided to establish a Preparatory Commission for the Court[3] and that the Commission has held three sessions, from 16 to 26 February, 26 July to 13 August and 29 November to 17 December 1999,

Bearing in mind the mandate of the Preparatory Commission, as set out in resolution F adopted by the Conference, with regard to the preparation of proposals for practical arrangements for the establishment and coming into operation of the Court, including the finalization before 30 June 2000 of the draft texts of the rules of procedure and evidence and of the elements of crimes,

Recalling, with regard to the future work of the Preparatory Commission and related working groups, the specific arrangements agreed upon by the Commission and referred to in paragraph 8 of the summary of the proceedings of its second session,[4]

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[1] A/CONF.183/9*

[2] A/CONF.183/10*

[3] Ibid., annex I

[4] PCNICC/1999/L.4/Rev.1 and Corr.1.

Recognizing the continuing need for making available adequate resources and secretariat services to the Preparatory Commission in order to enable it to discharge its functions efficiently and expeditiously,

Emphasizing the need to make the necessary arrangements for the commencement of the functions of the International Criminal Court in order to ensure its effective operation,

Noting that a number of States have deposited their instruments of ratification and that a significant and growing number of States have signed the Statute,

1. *Reiterates* the historic significance of the adoption of the Rome Statute of the International Criminal Court;[1]

2. *Calls upon* all States to consider signing and ratifying the Rome Statute, and encourages efforts aimed at promoting awareness of the results of the Conference and of the provisions of the Rome Statute;

3. *Requests* the Secretary-General to convene the Preparatory Commission, in accordance with resolution F adopted by the Conference, from 13 to 31 March, 12 to 30 June and 27 November to 8 December 2000, to carry out the mandate of that resolution and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court;

4. *Also requests* the Secretary-General to make available to the Preparatory Commission secretariat services, including the preparation of working documents if so requested by the Commission, to enable it to perform its functions;

5. *Further requests* the Secretary-General to invite, as observers to the Preparatory Commission, representatives of organizations and other entities that have received a standing invitation from the General Assembly, pursuant to its relevant resolutions,[5] to participate in the capacity of observers in its sessions and work, and also to invite as observers to the Commission representatives of interested regional intergovernmental organizations and other interested international bodies, including the international tribunals for the former Yugoslavia and for Rwanda;

6. *Notes* that non-governmental organizations may participate in the work of the Preparatory Commission by attending its plenary and its other open meetings, in accordance with the rules of procedure of the Commission, receiving copies of the official documents and making available their materials to delegates;

7. *Encourages* States to make voluntary contributions to the trust funds established pursuant to General Assembly resolutions 51/207 and 52/160, the mandates of which were expanded pursuant to Assembly resolution 53/105, towards meeting the costs of the participation in the work of the Commission of the least developed countries and of those developing countries not covered by the trust fund established pursuant to resolution 51/207;

8. *Requests* the Secretary-General to report to the General Assembly at its fifty-fifth session on the implementation of the present resolution;

9. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled "Establishment of the International Criminal Court".

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[5] Resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5 and 54/10.

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Fifty-fourth session
Agenda item 159

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Sixth Committee

Rapporteur: Mr. Joško **Klisović** (Croatia)

I. Introduction

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the fifty-fourth session of the General Assembly pursuant to Assembly resolution 53/106 of 8 December 1998.

2. At its 3rd plenary meeting, on 17 September 1999, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 5th to 8th, 17th, 29th, 30th and 34th meetings, from 13 to 15 and on 18 and 27 October and 11, 12 and 16 November 1999. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/54/SR. 5-8, 17, 29, 30 and 34).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[1]

(b) Report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/54/363);

[1] *Official Records of the General Assembly, Fifty-fourth session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1).

99-36562 (E) 031299

(c) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/54/383).

II. Consideration of proposals

A. Draft resolution A/C.6/54/L.11

5. At the 34th meeting, on 16 November, the representative of Egypt introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/54/L.11).

6. In introducing the draft resolution, the representative of Egypt orally revised it as follows:

(a) The eighth preambular paragraph, which read:

"*Taking note* of the report of the Secretary-General containing the comments and observations of the International Court of Justice and States on the consequences that the increase in the volume of cases before the Court has on its operation",

was deleted;

(b) In operative paragraph 3, subparagraph (e), which read:

"(e) To continue to consider, taking into account the comments presented by the International Court of Justice and States pursuant to resolution 53/106, practical ways and means of strengthening the Court, while respecting its authority and independence, on the understanding that whatever action may be taken as a result of the consideration will have no implications for any changes in the Charter of the United Nations or in the Statute of the International Court of Justice",

was deleted, and subparagraph (f) was renumbered subparagraph (e);

(c) In operative paragraph 5, the words "and to continue considering ways and means of improving its working methods" were deleted at the end of the paragraph.

7. The representatives of the former Yugoslav Republic of Macedonia and the Russian Federation made statements in explanation of position before the adoption of the draft resolution (see A/C.6/54/SR.34).

8. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.11, as orally revised, without a vote (see para. 15, draft resolution I).

B. Draft resolution A/C.6/54/L.3/Rev.1

9. At the 17th meeting, on 27 October, the representative of Bulgaria, on behalf of Bulgaria, the Russian Federation and Ukraine, introduced a draft resolution entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/C.6/54/L.3), which read:

"*The General Assembly*,

"*Concerned* about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of

Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

"*Recalling* the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

"*Recognizing* the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

"*Recalling*:

(a) The report of the Secretary-General entitled 'An Agenda for Peace', in particular paragraph 41 thereof,

(b) Its resolution 47/120 A of 18 December 1992, entitled 'An Agenda for Peace: preventive diplomacy and related matters', its resolution 47/120 B of 20 September 1993, entitled 'An Agenda for Peace', in particular section IV thereof, entitled 'Special economic problems arising from the implementation of preventive or enforcement measures', and its resolution 51/242 of 15 September 1997, entitled 'Supplement to an Agenda for Peace', in particular annex II thereof, entitled 'Question of sanctions imposed by the United Nations',

(c) The position paper of the Secretary-General entitled 'Supplement to an Agenda for Peace',

(d) The statement by the President of the Security Council of 22 February 1995,

(e) The report of the Secretary-General prepared pursuant to the statement by the President of the Security Council regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter,

(f) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995, 51/30 A of 5 December 1996 and 52/169 H of 16 December 1997,

(g) The reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of its sessions held in the years 1994 to 1999,

(h) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,

"*Taking note* of the most recent report of the Secretary-General, submitted in accordance with General Assembly resolution 53/107 of 8 December 1998,

"*Recalling* that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

"*Recalling also* the measures taken by the Security Council in accordance with the statement by the President of the Security Council of 16 December 1994 that, as part of the effort of the Council to improve the flow of information and the exchange

of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

"*Stressing* that, in the formulation of sanctions regimes, due account should be taken of the potential effects of the sanctions on third States,

"*Stressing also*, in this context, the powers of the Security Council under Chapter VII of the Charter and the primary responsibility of the Council under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

"*Recalling* that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

"*Recognizing* that the imposition of sanctions under Chapter VII has been causing special economic problems in third States and that it is necessary to take practical steps to address those problems effectively,

"*Taking into consideration* the views of third States which could be affected by the imposition of sanctions,

"*Recognizing* that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

"*Recognizing also* that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive and enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economy of those States,

"*Recalling* the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997 and 53/107 of 8 December 1998,

"1. *Renews its invitation* to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

"2. *Welcomes once again* the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 and aimed at increasing the effectiveness and transparency of the sanctions committees, invites the Council to implement those measures, and strongly recommends that the Council continue its efforts to further enhance the functioning of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

"3. *Requests* the Secretary-General to pursue implementation of General Assembly resolutions 50/51, 51/208, 52/162 and 53/107 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

"4. *Welcomes* the report of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States, and calls upon all States and relevant international organizations within and outside the United Nations system which have not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

"5. *Requests* the Secretary-General to present to the General Assembly at its fifty-fifth session his views on the conclusions and recommendations of the ad hoc expert group on the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions, taking into account the views of States, the organizations of the United Nations system, international financial institutions and other international organizations;

"6. *Reaffirms* the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

"7. *Welcomes* the decision of the Economic and Social Council, in its resolution 1999/59 of 20 July 1999, to continue consideration of the question of assistance to third States affected by the application of sanctions, and decides to transmit the report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions to the Economic and Social Council at its substantive session of 2000;

"8. *Invites* the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

"9. *Requests* the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 2000, to consider on a priority basis the question of the implementation of the provisions of the Charter

related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration all the related reports of the Secretary-General, in particular the 1998 report containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162, along with the most recent report of the Secretary-General on this question, the proposals submitted on the question, the debate on the question in the Sixth Committee during the fifty-fourth session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, as well as the implementation of the provisions of General Assembly resolutions 50/51, 51/208, 52/162 and 53/107 and the present resolution;

"10. *Decides* to consider, within a working group of the Sixth Committee at the fifty-fifth session of the General Assembly, further progress in the elaboration of effective measures aimed at the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

"11. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-fifth session."

10. At the 30th meeting, on 12 November, the representative of Ghana and coordinator of informal consultations introduced a revised draft resolution entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/C.6/54/L.3/Rev.1).

11. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.3/Rev.1 without a vote (see para. 15, draft resolution II).

12. The representative of the Russian Federation made a statement in explanation of position after the adoption of the draft resolution (see A/C.6/54/SR.30)

C. Draft resolution A/C.6/54/L.5

13. At the 29th meeting, on 11 November, the representative of Mexico introduced a draft resolution entitled "Strengthening of the International Court of Justice" (A/C.6/54/L.5).

14. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.5 without a vote (see para. 15, draft resolution III).

III. Recommendations of the Sixth Committee

15. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of Security Council and Other Matters Related to the Security Council,[2]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Recalling further that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Considering the desirability of finding practical ways and means of strengthening the Court,

Taking note of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*,[3]

Recalling its resolution 53/106 of 8 December 1998,

Having considered the report of the Special Committee on the work of its session held in 1999,[4]

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[4]

2. *Decides* that the Special Committee will hold its next session from 10 to 20 April 2000;

3. *Requests* the Special Committee, at its session in 2000, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the

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[2] Ibid., *Fifty-third Session, Supplement No. 47* (A/53/47).

[3] A/54/363.

[4] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1).

maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2000;

(b) To continue to consider on a priority basis the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration the reports of the Secretary-General,[5] the proposals submitted on this question, the debate on the question in the Sixth Committee at the fifty-fourth session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, and also the implementation of the provisions of General Assembly resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997 and 53/107 of 8 December 1998;

(c) To continue its work on the question of the peaceful settlement of disputes between States and, in this context, to continue its consideration of proposals relating to the peaceful settlement of disputes between States, including the proposal on the establishment of a dispute settlement service offering or responding with its services early in disputes and those proposals relating to the enhancement of the role of the International Court of Justice;

(d) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with General Assembly resolution 50/55 of 11 December 1995,[6] the report of the Secretary-General entitled "Renewing the United Nations: a programme for reform"[7] and the views expressed by States on this subject at the previous sessions of the General Assembly;

(e) To continue to consider, on a priority basis, ways and means to improve its working methods and enhance its efficiency with a view to identifying widely acceptable measures for future implementation;

4. *Takes note* of paragraph 33 of the report of the Secretary-General,[3] commends the Secretary-General for his continued efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs*, and endorses the efforts of the Secretary-General to eliminate the backlog in the publication of the *Repertoire of the Practice of the Security Council*;

5. *Invites* the Special Committee at its session in 2000 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations, to discuss how to offer its assistance to the working groups of the General Assembly in this field and, in this regard, to consider ways and means of improving coordination between the Special Committee and other working groups dealing with the reform of the Organization, including the role of the Chairperson of the Special Committee for this purpose;

6. *Requests* the Special Committee to submit a report on its work to the General Assembly at the fifty-fifth session;

7. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

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[5] A/48/573-S/26705 (see *Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993*), A/49/356, A/50/60-S/1995/1 (ibid., *Fiftieth Year, Supplement for January, February and March 1995*), A/50/423, A/50/361, A/51/317, A/52/308 and A/53/312.

[6] A/50/1011.

[7] A/51/950 and Add.1-7.

Draft resolution II
Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(a) The report of the Secretary-General entitled "An Agenda for Peace",[8] in particular paragraph 41 thereof,

(b) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive or enforcement measures", and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereof, entitled "Question of sanctions imposed by the United Nations",

(c) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace",[9]

(d) The statement by the President of the Security Council of 22 February 1995,[10]

(e) The report of the Secretary-General[11] prepared pursuant to the statement by the President of the Security Council[12] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter,

(f) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia[13] and General Assembly resolutions 48/210 of 21 December

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[8] A/47/277-S/24111; see *Official Records of the Security Council, Forty-seventh Year, Supplement for April, May and June 1992*, document S/24111.

[9] A/50/60-S/1995/1; see *Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995*, document S/1995/1.

[10] S/PRST/1995/9; see *Resolutions and Decisions of the Security Council, 1995*.

[11] A/48/573-S/26705; see *Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993*, document S/26705.

[12] See *Official Records of the Security Council, Forty-seventh Year, Supplement for October, November and December 1992*, document S/25036.

[13] A/49/356, A/50/423, A/51/356 and A/52/535.

1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995, 51/30 A of 5 December 1996 and 52/169 H of 16 December 1997,

(g) The reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of its sessions held in the years 1994 to 1999,[14]

(h) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[15]

Taking note of the most recent report of the Secretary-General, submitted in accordance with General Assembly resolution 53/107 of 8 December 1998,[16]

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

Recalling also the measures taken by the Security Council in accordance with the statement by the President of the Security Council of 16 December 1994[17] that, as part of the effort of the Council to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the primary responsibility of the Council under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems effectively,

Taking into consideration the views of third States which could be affected by the imposition of sanctions,

Recognizing that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

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[14] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33* (A/49/33); ibid., *Fiftieth Session, Supplement No. 33* (A/50/33); ibid., *Fifty-first Session, Supplement No. 33* (A/51/33); ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1); ibid., *Fifty-third Session, Supplement No. 33* (A/53/33); and ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1).

[15] A/50/361, A/51/317, A/52/308 and A/53/312.

[16] A/54/383.

[17] S/PRST/1994/81; see *Resolutions and Decisions of the Security Council, 1994*.

Recognizing also that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economy of those States,

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997 and 53/107 of 8 December 1998,

1. *Renews its invitation* to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

2. *Welcomes once again* the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51, most recently the note by the President of the Security Council of 29 January 1999[18] aimed at improving the work of the sanctions committees, including increasing the effectiveness and transparency of the sanctions committees, invites the Council to implement those measures, and strongly recommends that the Council continue its efforts to further enhance the functioning of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. *Requests* the Secretary-General to pursue the implementation of General Assembly resolutions 50/51, 51/208, 52/162 and 53/107 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

4. *Welcomes* the report of the Secretary-General[19] containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States, and invites States and relevant international organizations within and outside the United Nations system which have not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

5. *Requests* the Secretary-General to present to the General Assembly his views on the deliberations and main findings, including the recommendations, of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, taking into account the views of States, the organizations of the United Nations system, international financial institutions and other

[18] S/1999/92.

[19] See A/53/312.

international organizations, and to provide the relevant information, where appropriate, on other developments in this context, particularly on the work of the sanctions committees as referred to in the note by the President of the Security Council;[18]

6. *Reaffirms* the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

7. *Takes note* of the decision of the Economic and Social Council, in its resolution 1999/59 of 30 July 1999, to continue consideration of the question of assistance to third States affected by the application of sanctions, and decides to transmit the report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions[16] to the Council at its substantive session of 2000;

8. *Invites* the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

9. *Requests* the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 2000, to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration all the related reports of the Secretary-General, in particular the 1998 report[19] containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162, together with the most recent report of the Secretary-General on this question,[16] the proposals submitted on the question, the debate on the question in the Sixth Committee during the fifty-fourth session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, as well as the implementation of the provisions of General Assembly resolutions 50/51, 51/208, 52/162 and 53/107 and the present resolution;

10. *Decides* to consider, within the Sixth Committee, or if necessary within a working group of the Committee, at the fifty-fifth session of the General Assembly, further progress in the elaboration of effective measures aimed at the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

11. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-fifth session, under the agenda item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

Draft resolution III
Strengthening of the International Court of Justice

The General Assembly,

Recalling that the International Court of Justice is the principal judicial organ of the United Nations,

Noting an increase in the recourse to the Court by States and the effects of such an increase on its operation,

Recalling its resolution 53/106 of 8 December 1998, in which it requested the Special Committee to consider practical ways and means of strengthening the International Court of Justice,

Bearing in mind the comments and observations submitted by the Court and by States on the consequences that the increase in the volume of cases before the Court has on its operation,[20]

1. *Expresses its appreciation* to the International Court of Justice for the measures adopted to operate an increased workload with maximum efficiency;

2. *Invites* the Court to keep its working methods under periodic review and to adopt additional measures aimed at expediting its proceedings;

3. *Invites* States that appear before the Court to consider favourably the guidance offered by the Court in paragraph 3 of the annex to the report of the Secretary-General containing the comments and observations of the Court,[21] and to adopt, whenever possible, any other measure that may help to expedite the proceedings.

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[20] A/53/326 and Corr.1 and Add.1.

[21] A/53/326 and Corr.1.

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Measures to eliminate international terrorism

Report of the Sixth Committee

Rapporteur: Mr. Joško **Klisović** (Croatia)

I. Introduction

1. The item entitled "Measures to eliminate international terrorism" was included in the provisional agenda of the fifty-fourth session of the General Assembly pursuant to Assembly resolution 53/108 of 8 December 1998.

2. At its 3rd plenary meeting, on 17 September 1999, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 31st, 32nd, 34th, 35th and 37th meetings, on 12, 15, 16, 18 and 23 November 1999. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/54/SR.31, 32, 34, 35 and 37).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996;[1]

(b) Report of the Secretary-General (A/54/301 and Add.1);

(c) Letters dated 16 March, 19 April and 21 June 1999 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/54/74-S/1999/300, A/54/82-S/1999/463 and A/54/138-S/1999/704);

(d) Letters dated 13 and 16 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General (A/54/78-S/1999/420 and A/54/81);

[1] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 37* (A/54/37).

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(e) Letter dated 30 April 1999 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/54/90);

(f) Letter dated 5 May 1999 from the Permanent Representatives of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Uzbekistan to the United Nations addressed to the Secretary-General (A/54/94-S/1999/518);

(g) Letter dated 30 August 1999 from the Permanent Representative of Kyrgyzstan to the United Nations addressed to the Secretary-General (A/54/283-S/1999/927);

(h) Letter dated 29 September 1999 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General (A/C.6/54/2);

(i) Letter dated 29 October 1999 from the Acting Director General of the International Atomic Energy Agency addressed to the Secretary-General (A/C.6/54/3).

5. Pursuant to paragraph 12 of General Assembly resolution 53/108, the Committee, at its 2nd meeting, on 27 September, established a Working Group to continue work on a draft international convention for the suppression of terrorist financing and elected Philippe Kirsch (Canada) as its Chairman. The Working Group held 11 meetings, from 27 September to 8 October.

6. At the 31st meeting, on 12 November, the Chairman of the Working Group introduced the report of the Working Group, contained in document A/C.6/54/L.2 (see A/C.6/54/SR.31).

II. Consideration of proposals

A. Draft resolution A/C.6/54/L.16 and Corr.1

7. At the 35th meeting, on 18 November, the representative of Canada introduced a draft resolution entitled "International Convention for the Suppression of the Financing of Terrorism" (A/C.6/54/L.16 and Corr.1) and orally revised the first preambular paragraph by replacing the word "its" with the words "all its relevant resolutions, including resolution 46/51 of 9 December 1991".

8. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.16 and Corr.1, as orally revised, without a vote (see para. 13, draft resolution I).

9. After the adoption of the draft resolution, the representative of the Sudan made a statement in explanation of position and the representative of France made a concluding statement (see A/C.6/53/SR.35).

B. Draft resolution A/C.6/54/L.15/Rev.1

10. At the 37th meeting, on 23 November, the representative of Canada introduced a draft resolution entitled "Measures to eliminate international terrorism" (A/C.6/54/L.15/Rev.1) and orally revised it as follows:

(a) In the eighth preambular paragraph, the words "*Recalling* that in the Declaration ... the General Assembly" were replaced by the words "*Recalling* the Declaration ... wherein the General Assembly";

(b) In operative paragraph 13, the words "and recommends that the work continue" were replaced by the words "and that the work shall continue".

11. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.15/Rev.1 by 116 votes in favour to none against, with 3 abstentions (see para. 13, draft resolution II).

12. Before the adoption of the draft resolution, statements were made by the representatives of the Syrian Arab Republic and Lebanon; after the adoption of the draft resolution, statements in explanation of position were made by the representatives of the Syrian Arab Republic, the Sudan, Lebanon, Pakistan, the Islamic Republic of Iran, Cuba, the United States of America, Ghana, the Libyan Arab Jamahiriya, the Democratic Republic of the Congo, Rwanda, Benin, Togo and Yemen (see A/C.6/53/SR.37).

III. Recommendations of the Sixth Committee

13. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
International Convention for the Suppression of the Financing of Terrorism

The General Assembly,

Recalling all its relevant resolutions, including resolution 46/51 of 9 December 1991, resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and resolutions 51/210 of 17 December 1996 and 53/108 of 8 December 1998,

Having considered the text of the draft international convention for the suppression of the financing of terrorism prepared by the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and the Working Group of the Sixth Committee,[2]

1. *Adopts* the International Convention for the Suppression of the Financing of Terrorism annexed to the present resolution, and requests the Secretary-General to open it for signature at United Nations Headquarters in New York from 10 January 2000 to 31 December 2001;

2. *Urges* all States to sign and ratify, accept, approve or to accede the Convention.

Annex

International Convention for the Suppression of the Financing of Terrorism

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

[2] A/C.6/54/L.2, annex I.

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, contained in General Assembly resolution 50/6 of 24 October 1995,

Recalling also all the relevant General Assembly resolutions on the matter, including resolution 49/60 of 9 December 1994 and its annex on the Declaration on Measures to Eliminate International Terrorism, in which the States Members of the United Nations solemnly reaffirmed their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

Noting that the Declaration on Measures to Eliminate International Terrorism also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Recalling General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly called upon all States to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds,

Recalling also General Assembly resolution 52/165 of 15 December 1997, in which the Assembly called upon States to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210 of 17 December 1996,

Recalling further General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Noting that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,

Noting also that existing multilateral legal instruments do not expressly address such financing,

Being convinced of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.

2. "A State or governmental facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

3. "Proceeds" means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 18 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences.

Article 5

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State;

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State;

(b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State;

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act;

(d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of the funds derived from the forfeitures referred to in this article.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 7, paragraph 1, subparagraph (b), or paragraph 2, subparagraph (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 7, paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their

decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 11

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

3. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

4. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

5. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange

that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 13

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 14

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 16

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 2 may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 17

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

Article 18

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

(i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(iii) Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;

(iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:

(a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;

(b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds relating to the commission of such offences.

4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

Article 19

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 20

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 21

Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 23

1. The annex may be amended by the addition of relevant treaties that:

(a) Are open to the participation of all States;

(b) Have entered into force;

(c) Have been ratified, accepted, approved or acceded to by at least twenty-two States Parties to the present Convention.

2. After the entry into force of this Convention, any State Party may propose such an amendment. Any proposal for an amendment shall be communicated to the depositary in written form. The depositary shall notify proposals that meet the requirements of paragraph 1 to all States Parties and seek their views on whether the proposed amendment should be adopted.

3. The proposed amendment shall be deemed adopted unless one third of the States Parties object to it by a written notification not later than 180 days after its circulation.

4. The adopted amendment to the annex shall enter into force 30 days after the deposit of the twenty-second instrument of ratification, acceptance or approval of such amendment for all those States Parties having deposited such an instrument. For each State Party ratifying, accepting or approving the amendment after the deposit of the twenty-second instrument, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

Article 24

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 25

1. This Convention shall be open for signature by all States from 10 January 2000 to 31 December 2001 at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 26

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 27

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 28

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on 10 January 2000.

Annex

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.

2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.

3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.

4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.

6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.

7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.

8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

Draft resolution II
Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling all its relevant resolutions, including resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and resolutions 50/53 of 11 December 1995, 51/210 of 17 December 1996, 52/165 of 15 December 1997 and 53/108 of 8 December 1998, as well as Security Council resolution 1269 (1999) of 19 October 1999,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[3]

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Stressing the need to strengthen further international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Recalling the Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 49/60, wherein the General Assembly encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter,

Noting the final communiqué of the meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries, held in New York on 23 September 1999,[4] which reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed the previous initiative of the Twelfth Conference of Heads of State or Government of Non-Aligned Countries, held at Durban, South Africa, from 29 August to 3 September 1998,[5] calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling its decision in resolution 53/108 to address at its fifty-fourth session the question of convening a high-level conference in 2000 under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

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[3] See resolution 50/6.

[4] A/54/469-S/1999/1063, annex, para. 53.

[5] See A/53/667-S/1998/1071, annex I, paras. 149-162, see *Official Records of the Security Council, Fifty-third Year, Supplement for October, November and December 1998*, document S/1998/1071.

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Having examined the report of the Secretary-General,[6]

1. *Strongly condemns* all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. *Reiterates its call* upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210;

4. *Also reiterates its call* upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. *Reiterates its call* upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions;

7. *Urges* all States that have not yet done so to consider, as a matter of priority, becoming parties to relevant conventions and protocols as referred to in paragraph 6 of resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings,[7] and calls upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

8. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 49/60 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 51/210, and calls upon all States to implement them;

9. *Takes note* of the establishment of the Terrorism Prevention Branch of the Centre for International Crime Prevention in Vienna, and welcomes its efforts, after reviewing existing possibilities within the United Nations system, to enhance through research and technical cooperation the capabilities of the United Nations in the prevention of terrorism;

10. *Invites* States that have not yet done so to submit to the Secretary-General information on their national laws and regulations regarding the prevention and suppression of acts of international terrorism;

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[6] A/54/301 and Add.1.

[7] Resolution 52/164, annex.

11. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism;

12. *Decides* that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 shall continue to elaborate a draft international convention for the suppression of acts of nuclear terrorism with a view to completing the instrument, shall address means of further developing a comprehensive legal framework of conventions dealing with international terrorism, including considering the elaboration of a comprehensive convention on international terrorism, and shall address the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations;

13. *Decides also* that the Ad Hoc Committee shall meet from 14 to 18 February 2000, devoting appropriate time to the consideration of the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and that it shall address the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, and that the work shall continue, including beginning consideration with a view to the elaboration of a comprehensive convention on international terrorism within a comprehensive legal framework of conventions dealing with international terrorism, during the fifty-fifth session of the General Assembly from 25 September to 6 October 2000, within the framework of a working group of the Sixth Committee, and that the Ad Hoc Committee shall be convened in 2001 to continue its work;

14. *Requests* the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

15. *Requests* the Ad Hoc Committee to report to the General Assembly at its fifty-fourth session in the event of the completion of the draft international convention for the suppression of acts of nuclear terrorism;

16. *Also requests* the Ad Hoc Committee to report to the General Assembly at its fifty-fifth session on progress made in the implementation of its mandate;

17. *Decides* to include in the provisional agenda of its fifty-fifth session the item entitled "Measures to eliminate international terrorism".